

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RAYMOND E. BLAKE, ANTHONY M. :
WALKER, MICHAEL A. JOY, NAHEIM: :
HAMMOND, MICHAEL SMALLWOOD, :
GENE B. MADGETTE, ANTHONY D. :
ROGERS, DARON J. RODGERS, :
STEVEN JOYNER, and TERRENCE :
ROBINSON, :
 :
Plaintiffs, :
 :
v. : Civil Action No. 07-405-JJF
 :
HEALTHCARE CMS, WARDEN RAPHAEL: :
WILLIAMS, COMMISSIONER CARL C.: :
DANBERG, GOVERNOR RUTH ANN :
MINNER, and MAYOR JAMES M. :
BAKER, :
 :
Defendants. :

O R D E R

Plaintiffs, who proceed pro se, are all presently incarcerated within the Delaware Department of Correction. Five of the Plaintiffs have filed Applications To Proceed Without Prepayment Of Fees pursuant to 28 U.S.C. § 1915. (D.I. 1, 2, 3, 4, 14.)

On July 10, 2007, the Court entered an Order granting the Applications of Plaintiffs Anthony D. Rogers ("Rogers") and Steven Joyner ("Joyner"). (D.I. 10.) The Order required Rogers and Joyner, within 30 days from the date the Order was sent, to submit certified copies of their respective prison trust fund account statement or the institutional equivalent for the six-month period immediately preceding the filing of the Complaint,

or they would be dismissed as Plaintiffs. (D.I. 10.) Rogers timely submitted his trust account statement (D.I. 16); Joyner did not. Therefore, Joyner is **DISMISSED WITHOUT PREJUDICE** as a Plaintiff in this action. Joyner will not be required to pay any portion of the \$350.00 filing fee.

The Court entered a second Order on July 10, 2007, requiring Plaintiffs Michael A. Joy ("Joy"), Naheim Hammond ("Hammond"), Michael Smallwood ("Smallwood"), Gene B. Madgett ("Madgett"), Daron J. Rodgers ("Rodgers"), and Terrence Robinson ("Robinson"), within 30 days from the date the Order was sent, to submit Applications To Proceed Without Prepayment Of Fees pursuant to 28 U.S.C. § 1915 and their trust fund account statements. (D.I. 9) Joy timely complied with the Court's Order. (D.I. 14.) However, to date, the required documents have not been received from Plaintiffs Hammond, Smallwood, Madgett, Rodgers, and Robinson. Therefore, Hammond, Smallwood, Madgett, Rodgers, and Robinson are **DISMISSED WITHOUT PREJUDICE** as Plaintiffs in this action. Plaintiffs Hammond, Smallwood, Madgett, Rodgers, and Robinson will not be required to pay any portion of the \$350.00 filing fee.

Currently pending are the Applications To Proceed Without Prepayment Of Fees pursuant to 28 U.S.C. § 1915 filed by Plaintiffs Raymond E. Blake ("Blake"), Anthony M. Walker, and Joy (D.I. 1, 2, 14.) Consistent with 28 U.S.C. § 1915(a)(1) and (2),

Blake, Walker, and Joy have each submitted: (1) an affidavit stating that he has no assets with which to prepay the filing fee; and (2) a certified copy of his prison trust fund account statement for the six-month period immediately preceding the filing of the above-referenced Complaint. Based on their submissions, their Applications To Proceed Without Prepayment Of Fees pursuant to 28 U.S.C. § 1915 (D.I. 1, 2, 14) are GRANTED.

Notwithstanding the above, pursuant to 28 U.S.C. § 1915(b)(1), Plaintiffs Blake, Walker, Joy, and Rogers shall be assessed the filing fee of \$350.00. Plaintiffs are jointly and severally liable for the \$350.00 filing fee. The Court has determined that the \$350.00 filing fee shall be divided among the remaining Plaintiffs. Each Plaintiff shall be required to pay either an initial partial filing of \$19.43, **or** an initial partial filing fee of 20 percent (20%) of the greater of his average monthly deposit or average monthly balance in the trust fund account.

IT IS HEREBY ORDERED that Plaintiffs shall pay the \$350.00 filing fee as follows:

Raymond E. Blake, SBI #377092, shall, thirty days from the date this Order is sent, complete and return to the Clerk of Court, the attached authorization form allowing the agency having custody of him to forward all payments required by 28 U.S.C. § 1915(b)(2) to the Clerk of the Court. The Court has determined

that Blake has no assets and no means to pay the initial partial filing fee, nevertheless, any money Blake later receives will be collected in the manner described below.

Anthony M. Walker, SBI #553223, shall, within thirty days from the date this Order is sent, complete and return the attached authorization form allowing the agency having custody of him to forward an initial partial filing fee of **\$9.50** and subsequent payments to the Clerk of the Court.

Michael A. Joy, SBI #519040, shall, within thirty days from the date this Order is sent, complete and return the attached authorization form allowing the agency having custody of him to forward the initial partial filing fee of **\$19.43** and subsequent payments to the Clerk of the Court.

Anthony D. Rogers, SBI #342210, shall, within thirty days from the date this Order is sent, complete and return the attached authorization form allowing the agency having custody of him to forward the initial partial filing fee of **\$.60** and subsequent payments to the Clerk of the Court.

THE FAILURE OF ANY PLAINTIFF TO RETURN THE AUTHORIZATION FORM WITHIN 30 DAYS FROM THE DATE THIS ORDER IS SENT SHALL RESULT IN DISMISSAL OF THAT PLAINTIFF FROM THIS ACTION WITHOUT PREJUDICE AND POSSIBLE REAPPORTIONMENT OF THE FILING FEE AMONG THE REMAINING PLAINTIFFS. NOTWITHSTANDING ANY PAYMENT MADE OR

REQUIRED, THE COURT SHALL DISMISS THE CASE IF THE COURT DETERMINES THAT THE ACTION IS FRIVOLOUS OR MALICIOUS, FAILS TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED, OR SEEKS MONETARY RELIEF AGAINST A DEFENDANT WHO IS IMMUNE FROM SUCH RELIEF.

Upon receipt of this Order and the authorization forms, the Warden or other appropriate official at the prison or institution having custody of each Plaintiff shall be required to deduct the stated initial partial filing fee for each Plaintiff as set forth in this Order, from each Plaintiff's trust account when such funds become available, and forward that amount to the Clerk of the Court. Thereafter, absent further Order of the Court, each time that the balance in each Plaintiff's trust account exceeds \$10.00, the Warden or other appropriate official at any prison where each Plaintiff is or may be incarcerated, shall be required to make monthly payments of 20 percent (20%) of the preceding month's income credited to Plaintiff's trust account and forward that amount to the Clerk of the Court until the \$350.00 filing fee is paid in full.

DATED: *September 12, 2007*


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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GENE B. MADGETTE, ANTHONY D. :
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HEALTHCARE CMS, WARDEN RAPHAEL: :
WILLIAMS, COMMISSIONER CARL C.: :
DANBERG, GOVERNOR RUTH ANN :
MINNER, and MAYOR JAMES M. :
BAKER, :
: :
Defendants. :

AUTHORIZATION

I, Raymond E. Blake, SBI #377092 request and authorize the agency holding me in custody to disburse to the Clerk of the Court all payments pursuant to 28 U.S.C. § 1915(b) and required by the Court's Order dated September ___, 2007.

This authorization is furnished to the Clerk of Court in connection with the filing of a civil action, and I understand that the filing fee for the Complaint is \$350.00. I also understand that the entire filing fee may be deducted from my trust account regardless of the outcome of my civil action. This

authorization shall apply to any other agency into whose custody
I may be transferred.

Date: _____, 2007.

Signature of Plaintiff

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FOR THE DISTRICT OF DELAWARE

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DANBERG, GOVERNOR RUTH ANN :
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BAKER, :
: :
Defendants. :

AUTHORIZATION

I, Anthony D. Rogers, SBI #342210, request and authorize the agency holding me in custody to disburse to the Clerk of the Court the initial partial filing fee of \$.60 and the subsequent payments pursuant to 28 U.S.C. § 1915(b) and required by the Court's Order dated September ___, 2007.

This authorization is furnished to the Clerk of Court in connection with the filing of a civil action, and I understand that the filing fee for the Complaint is \$350.00. I also understand that the entire filing fee may be deducted from my trust account regardless of the outcome of my civil action. This

authorization shall apply to any other agency into whose custody
I may be transferred.

Date: _____, 2007.

Signature of Plaintiff

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BAKER, :
: :
Defendants. :

AUTHORIZATION

I, Michael A. Joy, SBI #519040, request and authorize the agency holding me in custody to disburse to the Clerk of the Court the initial partial filing fee of \$19.43 and the subsequent payments pursuant to 28 U.S.C. § 1915(b) and required by the Court's Order dated September ___, 2007.

This authorization is furnished to the Clerk of Court in connection with the filing of a civil action, and I understand that the filing fee for the Complaint is \$350.00. I also understand that the entire filing fee may be deducted from my trust account regardless of the outcome of my civil action. This

authorization shall apply to any other agency into whose custody
I may be transferred.

Date: _____, 2007.

Signature of Plaintiff

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AUTHORIZATION

I, Anthony M. Walker, SBI #553223, request and authorize the agency holding me in custody to disburse to the Clerk of the Court the initial partial filing fee of \$9.50 and the subsequent payments pursuant to 28 U.S.C. § 1915(b) and required by the Court's Order dated September____, 2007.

This authorization is furnished to the Clerk of Court in connection with the filing of a civil action, and I understand that the filing fee for the Complaint is \$350.00. I also understand that the entire filing fee may be deducted from my trust account regardless of the outcome of my civil action. This

authorization shall apply to any other agency into whose custody
I may be transferred.

Date: _____, 2007.

Signature of Plaintiff